

Notice of Allowability

Application No.

10/635,056

Examiner

Nicholas Ponomarenko

Applicant(s)

BRANDENBURG ET AL.

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper dated 8/6/03.
2. ☒ The allowed claim(s) is/are 28-32.
3. ☒ The drawings filed on 06 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4 pages
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-22, drawn to a portable generator set with its structure mounted on a frame with wheels and with a fuel tank having an opening for an electrical block.
 - II. Claims 23-27, drawn to a portable generator similar to Group I, but with different embodiment of its functional elements and the structure of the fuel tank.
 - III. Claims 28-32, drawn to a portable generator set positioned on a stationary platform with corresponding arrangement of its functional elements.

2. The inventions are distinct, each from the other because of the following reasons: Inventions of Group I through III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions cannot be used together, they have different application and utilization because of their different operational effects.

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3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Casimir F. Laska (Reg.No.30,862) on March 14, 2005 a provisional election was made without traverse to prosecute the invention of Group III, claims 28-32. Claims 1-27 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Examiner's Amendment

5. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. §1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

6. This application is in condition for allowance except for the presence of claims 1-27 to invention(s) non-elected without traverse. Accordingly, claims 1-27 have been cancelled.

7. The application has been amended as follows:

Cancel claims 1-27.

Reasons for Allowance

8. Claims 28-32 are allowed.

9. Examiner's Statement of Reasons for Allowance:

Applicant(s) invention relates to a portable power generator set, and more specifically, to an arrangement of a portable generator set components.

The generator set has a stationary frame, a mounting member, an internal combustion engine, an electrical generator, a fuel tank and enclosure, which are arranged in such way to allow two passages for cooling air, as disclosed.

There are inventions in the field that provide similar functionality and/or have similar features, as prior art of record shows. Applicant(s) invention differs from the prior art of record by the configuration for the functional components, which provide in combination two air passages for cooling air, as is disclosed and claimed, and which examiner's search failed to find.

10. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant(s) disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Ponomarenko whose telephone number is (571) 272- 2033, Fax: (571) 273-2033, or to his SPE Darren Schuberg – (571) 272-2044.

13. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2800 Customer Service
Phone: (571) 272-2815

np
March 15, 2005



**Nicholas Ponomarenko
Primary Examiner
Technology Center 2800**